

REMARKS

The Office Action dated May 16, 2005 has been read and carefully considered and the present amendment submitted in order to point out the differences between the present invention and the references of record.

In that Office Action, claims 1, 2, 4, 5, 23, 25 and 26 were rejected under 35 U.S.C. 103(a) as being unpatentable over Preus *et al*, U.S. Patent 3,862,040. Claims 7, 8, 12, 15, 16, 18, 19, 20, 22 and 29 were rejected under 35 U.S.C. 103(a) as being unpatentable over Preus *et al* in view of Williamson U.S. Patent 6,524,473. Claims 6, 9, 10, 123, 14, 27, and 28 were rejected under 35 U.S.C. 103(a) as being unpatentable over Preus *et al*, in view of Williamson and further in view of Malone *et al*, U.S. Patent 6,303,033.

Claims 3, 11, 17, 21 and 24 were objected to as being dependent upon a rejected base claim but were otherwise indicated as being allowable if rewritten in independent form to include the limitations of the base claim and any intervening claims. Applicant appreciates the indication of allowable subject matter.

As such, Applicant has amended all of the independent claims, that is, claims 1, 12, and 23 in order to better define the present invention. As now claimed, therefore, it has been made clear that the water passes from the low flow treatment path into the high flow treatment path when the water reaches a predetermined height and, therefore, there is an opening that is located at a predetermined height so that such overflow of water resulting from an inrush at a high flow can readily pass to the high flow treatment path.

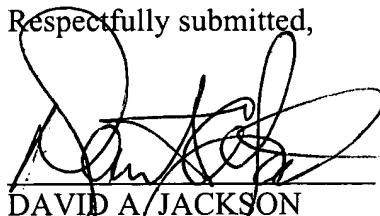
As stated by the Examiner in indicating the allowability of claim 11, the recitation of a "separate tank having a low flow treatment path with a high flow bypass to a high flow treatment path, each of which has means to remove both floating and non-floating material, wherein the bypass from the low flow path to the high flow path is an overflow weir" patentably distinguishes

over the prior art of record". Applicant's apparatus is preferably a high flow weir, however, the invention itself is believed to still be patentably distinct over the cited references by the presence of an opening that is located at a predetermined height so that the flow of water passes from the low flow treatment path into the high flow treatment path when the height of the water exceeds the predetermined height of the opening itself. Thus, the use of an opening located at a predetermined height to allow the high flow of water exceeding that height to pass into the high flow treatment path is submitted to be patentable over the cited references.

Taking, therefore, the Preus apparatus, in Fig. 4 there is an embodiment that directs high flows of the liquid into the separating tank 14 but that high flow passes out of a water line 218 having a lower orifice 260 and therefore is not based upon the height of ht water in the low flow treatment path, nor does it achieve any of the advantages of having a height related opening.

It is therefore submitted that the present claims, as now amended, define patentable subject matter over the Preus reference and the secondary references of Williamson and Malone et al do not affect that distinction.

For the foregoing reasons, an allowance of the present patent application is respectfully solicited.

Respectfully submitted,  
  
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